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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

IN RE: HIGH-TECH EMPLOYEE
ANTITRUST LITIGATION

THIS DOCUMENT RELATES TO:

All Actions

Master Docket No. 11-CV-2509-LHK

**PLAINTIFFS' ADMINISTRATIVE
MOTION TO FILE UNDER SEAL
PLAINTIFFS' SUPPLEMENTAL MOTION
FOR CLASS CERTIFICATION, AND
MEMORANDUM OF LAW IN SUPPORT**

Judge: Honorable Lucy H. Koh

Pursuant to Civil Local Rule 7-11 and 79-5(d), Plaintiffs respectfully request an order from the Court authorizing the filing under seal of the items identified below:

- (1) Portions of Plaintiffs' Supplemental Motion for Class Certification and Memorandum in support of the Motion (Plaintiffs' Supplemental Class Certification Motion);
- (2) Portions of Expert Witness Report of Kevin F. Hallock;
- (3) Portions of Expert Witness Report of Edward E. Leamer, Ph.D.;
- (4) Exhibits A through VV and Plaintiffs' Exhibits attached to the Declaration of Lisa J. Cisneros in Support of Plaintiffs' Supplemental Motion for Class Certification. Plaintiffs' Exhibits that are the subject of this request to seal are identified in Attachment A to this Motion; and
- (5) Exhibits 1 through 17 to the Declaration of Dean M. Harvey in Support of Plaintiffs' Supplemental Motion for Class Certification.

Plaintiffs request that the above noted documents be filed under seal because they are or refer to documents or information that Defendants have designated "CONFIDENTIAL" or "CONFIDENTIAL – ATTORNEYS' EYES ONLY" under the Stipulated Protective Order (Modified by the Court) (Dkt. No. 107). None of the information at issue was designated as confidential by Plaintiffs. Plaintiffs take no position on whether the designated documents satisfy the requirements for sealing, and specifically reserve the right to challenge any "CONFIDENTIAL" or "CONFIDENTIAL – ATTORNEYS' EYES ONLY" designation under the Stipulated Protective Order (Modified by the Court) (Dkt. No. 107) as well as the sealability of these documents under Civil Local Rule 79-5.

Rule 26(c) of the Federal Rules of Civil Procedure provides broad discretion for a trial court to permit sealing of court documents for, inter alia, the protection of "a trade secret or other confidential research, development, or commercial information." Fed. R. Civ. P. 26(c)(1)(G). The Ninth Circuit has "carved out an exception to the presumption of access to judicial records for a sealed discovery document [attached] to a nondispositive motion," where the requesting party shows good cause exists to keep the records under seal. *Navarro v. Eskanos & Adler*, No. C-06 02231, 2007

1 U.S. Dist. LEXIS 24864, at *6 (N.D. Cal. March 22, 2007) (citing *Kamakana v. City & Cnty. of*
2 *Honolulu*, 447 F.3d 1172, 1180 (9th Cir. 2006) (“[A] ‘particularized showing’ under the ‘good cause’
3 standard of Rule 26(c) will ‘suffice[] to warrant preserving the secrecy of sealed discovery material
4 attached to nondispositive motions.”); *see also Pintos v. Pacific Creditors Assoc.*, 565 F.3d 1106,
5 1115 (9th Cir. 2009) (“In light of the weaker public interest in nondispositive materials, we apply the
6 ‘good cause’ standard when parties wish to keep them under seal.”). Although Plaintiffs’ request is
7 narrowly tailored to include only the information that may require confidentiality, Defendants
8 must show good cause for sealing the documents they have placed a confidentiality designation
9 upon by submitting a declaration and proposed order within seven days after the lodging of the
10 designated documents. *See* Civil Local Rule 79-5(d).

11 Pursuant to Local Rule 79-5(d) and this Court’s Standing Order Regarding Motion to File
12 Under Seal, the proposed redacted versions of Plaintiffs’ Supplemental Class Certification
13 Motion and the Expert Reports have been attached as Exhibits 1 through 3 of this motion and e-
14 filed publicly. Pursuant to this Court’s January 11, 2013 Order (Dkt. 269), Plaintiffs’
15 Supplemental Class Certification Motion and Expert Reports with proposed redactions
16 highlighted in Yellow have been attached hereto as Exhibit 4 through 6. Pursuant to Local Rule
17 79-5(b)(3) and (c)(3), the proposed redacted version of Plaintiffs’ Supplemental Class
18 Certification Motion, the unredacted version of the same with Yellow highlighting, and the
19 unredacted Exhibits and Expert Reports, have been served on Defendants and lodged with the
20 Court.

1 Dated: May 10, 2013

Respectfully Submitted,

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3 By: /s/ Lisa J. Cisneros

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25 *Co-Lead Counsel for Plaintiffs and the Proposed Class*
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ATTACHMENT A
Plaintiffs' Exhibits

1. Exhibit 8, LUCAS00014721.
2. Exhibit 119, PIX00001263.
3. Exhibit 129, PIX00002262.
4. Exhibit 137, PIX00003974.
5. Exhibit 139, PIX00004883.
6. Exhibit 173, GOOG-HIGH-TECH-00193034.
7. Exhibit 175, GOOG-HIGH-TECH-00061040.
8. Exhibit 176, GOOG-HIGH TECH-000000004.
9. Exhibit 186, GOOG-HIGH TECH-00008964.
10. Exhibit 187, 231APPLE002149.
11. Exhibit 192, GOOG-HIGH TECH-000001 07.
12. Exhibit 199, 231APPLE002140.
13. Exhibit 202, 76526DOC000011.
14. Exhibit 210, ADOBE_000611.
15. Exhibit 216, ADOBE_050720.
16. Exhibit 223, 231APPLE002143.
17. Exhibit 250, 231APPLE006876.
18. Exhibit 268, 268, 231APPLE009277.
19. Exhibit 278, 231APPLE002150.
20. Exhibit 279, 231APPLE002151.
21. Exhibit 295, Adobe_052076.
22. Exhibit 331, LUCAS00061414.
23. Exhibit 359, LUCAS00024981.
24. Exhibit 360, LUCAS00188912.
25. Exhibit 369, PIX00003599.
26. Exhibit 391, 76583DOC003750.

- 1 27. Exhibit 392, 76583DOC003888.
- 2 28. Exhibit 393, 76583DOC002007.
- 3 29. Exhibit 397, 76583DOC008097.
- 4 30. Exhibit 398, 76579DOC005956.
- 5 31. Exhibit 399, 76582DOCb00004.
- 6 32. Exhibit 400, 765825DOC001211.
- 7 33. Exhibit 416, Declaration of Donna Morris of Adobe Systems Inc. In Support of
- 8 Defendants' Opposition to Plaintiffs' Motion for Class Certification
- 9 34. Exhibit 420, PIX00006025.
- 10 35. Exhibit 424, PIX00009182.
- 11 36. Exhibit 458, 76616DOC007593.
- 12 37. Exhibit 472, GOOG-HIGH-TECH-00195005.
- 13 38. Exhibit 478, 76616DOC012164.
- 14 39. Exhibit 557, GOOG-HIGH-TECH-00293087.
- 15 40. Exhibit 563, 231APPLE073139.
- 16 41. Exhibit 597, GOOG-HIGH-TECH-00056882.
- 17 42. Exhibit 608, GOOG-HIGH-TECH-00255349.
- 18 43. Exhibit 614, GOOG-HIGH-TECH-00379327.
- 19 44. Exhibit 616, GOOG-HIGH-TECH-00210242.
- 20 45. Exhibit 621, GOOG-HIGH-TECH-00336877.
- 21 46. Exhibit 648, GOOG-HIGH-TECH-00265514.
- 22 47. Exhibit 650, GOOG-HIGH-TECH-00265638.
- 23 48. Exhibit 651, GOOG-HIGH-TECH-00058868.
- 24 49. Exhibit 653, GOOG-HIGH-TECH-00058495.
- 25 50. Exhibit 660, GOOG-HIGH-TECH-00246586.
- 26 51. Exhibit 661, GOOG-HIGH-TECH-00059839.
- 27 52. Exhibit 666, GOOG-HIGH-TECH-00248307.
- 28 53. Exhibit 668, GOOG-HIGH-TECH-00248336.

- 1 54. Exhibit 674, GOOGcHJGH-TECH-00252601
- 2 55. Exhibit 690, LUCAS00013705.
- 3 56. Exhibit 710, LUCAS00194841.
- 4 57. Exhibit 711, Declaration of Michelle Maupin In Support of Defendants’
- 5 Opposition to Plaintiffs’ Motion for Class Certification.
- 6 58. Exhibit 715, LUCAS00188708.
- 7 59. Exhibit 716, LUCAS00185312.
- 8 60. Exhibit 727, LUCAS00201067.
- 9 61. Exhibit 728, LUCAS00060705.
- 10 62. Exhibit 729, LUCAS00198130.
- 11 63. Exhibit 730, LUCAS00199904.
- 12 64. Exhibit 781, 76596DOC017010.
- 13 65. Exhibit 872, GOOG-HIGH-TECH-00264994.
- 14 66. Exhibit 912, INTUIT_040817.
- 15 67. Exhibit 914, INTUIT_001614.
- 16 68. Exhibit 944, LUCAS00061513.
- 17 69. Exhibit 945, LUCAS00189276.
- 18 70. Exhibit 959, LUCAS00188708.
- 19 71. Exhibit 1107, INTUIT_007865.
- 20 72. Exhibit 1130, 231APPLE099371.
- 21 73. Exhibit 1158, ADOBE_005661.
- 22 74. Exhibit 1159, ADOBE_019278.
- 23 75. Exhibit 1160, ADOBE_009652.
- 24 76. Exhibit 1250, ADOBE_011976.
- 25 77. Exhibit 1305, PIX00049042.
- 26 78. Exhibit 1306, PIX00012996.
- 27 79. Exhibit 1308, Pixar Salary Analysis.
- 28 80. Exhibit 1309, PIX00049648.

- 1 81. Exhibit 1376, 231APPLE039426.
- 2 82. Exhibit 1600, 2004 Google Salary Ranges.
- 3 83. Exhibit 1606, GOOG-HIGH-TECH-00036287.
- 4 84. Exhibit 1609, GOOG-HIGH-TECH-004 75237.
- 5 85. Exhibit 1613, GOOG-IGH-TECH-00473658.
- 6 86. Exhibit 1618, GOOG-HIGH-TECH-00474897.
- 7 87. Exhibit 1625, GOOG-HIGH-TECH-00506628.
- 8 88. Exhibit 1629, GOOG-HIGH-TECH-00509662.
- 9 89. Exhibit 1753, GOOG-HIGH-TECH-00325500.
- 10 90. Exhibit 1760, INTUIT_052803.
- 11 91. Exhibit 1761, INTUIT_049796.
- 12 92. Exhibit 1854, 2231APPLE100673.
- 13 93. Exhibit 1855, Declaration of Steven Burmeister In Support of Defendants'
- 14 Opposition to Plaintiffs' Motion for Class Certification.
- 15 94. Exhibit 1856, 231APPLE105342.
- 16 95. Exhibit 1858, 231APPLE098912.
- 17 96. Exhibit 1859, 231APPLE105324.
- 18 97. Exhibit 1868, GOOG-HIGH-TECH-00550729.
- 19 98. Exhibit 1869, GOOG-HIGH-TECH-00550725.
- 20 99. Exhibit 1870, GOOG-HIGH-TECH-00550726.
- 21 100. Exhibit 1871, GOOG-HIGH-TECH-00061052.
- 22 101. Exhibit 1872, GOOG-HIGH-TECH-00550723.
- 23 102. Exhibit 2030, Declaration of Danny McKell In Support of Opposition to Class
- 24 Certification.
- 25 103. Exhibit 2033, 76657DOC004599.
- 26 104. Exhibit 2035, 76657DOC019261.
- 27 105. Exhibit 2084, LUCAS00218268.
- 28 106. Exhibit 2088, LUCAS00218299.

- 1 107. Exhibit 2002, LUCAS00217253.
- 2 108. Exhibit 2094, LUCAS00218283.
- 3 109. Exhibit 2096, LUCAS00217124.
- 4 110. Exhibit 2100, LUCAS00217547.
- 5 111. Exhibit 2135, INTUIT_034255.
- 6 112. Exhibit 2140, INTUIT_039756.
- 7 113. Exhibit 2142, INTUIT_039793.
- 8 114. Exhibit 2422, GOOG-HIGH-TECH-00328300.
- 9 115. Exhibit 2425, GOOG-HIGH-TECH-00625147.
- 10 116. Exhibit 2426, GOOG-HIGH-TECH-00281629.
- 11 117. Exhibit 2486, Declaration of Donna Morris of Adobe Systems Inc. In Support of
- 12 Defendants' Opposition to Plaintiffs' Motion for Class Certification.
- 13 118. Exhibit 2487, ADOBE_100600.
- 14 119. Exhibit 2501, ADOBE_009425.
- 15 120. Exhibit 2735, GOOG-HIGH-TECH-00480249.
- 16 121. Exhibit 2738, INTUIT_043557.
- 17 122. Exhibit 2739, INTUIT_043560.
- 18 123. Exhibit 2740, INTUIT_052841.
- 19 124. Exhibit 2743, INTUIT_041933.
- 20 125. Exhibit 2744, INTUIT 052826.
- 21 126. Exhibit 2800, ADOBE_068264.

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